IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3065 OF 2005

Anil Khandu Yeola ...Petitioner

V/s.

Nashik District Supervision
Co-operative Society Ltd. ...
Respondent

Mr. U.P. Warunjikar for the Petitioner.

CORAM: KSHITIJ R. VYAS, C.J., &
DR. D.Y. CHANDRACHUD,J.
DATE: MAY 2, 2006.

P.C.:-

1. The petitioner, Anil Khandu Yeola, in this petition, has prayed that the order dated 3rd November, 2003 in Appeal No. 95 of 2003 passed by the Divisional Joint Registrar of Co-operative Societies, Nashik Division, Nashik, be quashed.

2. It appears that on 20th December, 2002, a complaint was filed by the Chairman of Askheda Bruhat Vividh Karyakari Seva Society Ltd. against the petitioner alleging misappropriation of

approximately Rs.16 lakhs. The petitioner was served with the show-cause notice in that connection, and he was suspended on 4th February, 2003 during the pendency of the inquiry in the matter. The inquiry was completed and the finding was recorded that the petitioner has misappropriated the said sum. On 16th July, 2003, the petitioner was served with the second show-cause notice and order was passed dismissing him from his services. On 19th April, 2003, an order was passed directing the petitioner to make good the loss of Rs.16 lakhs and odd along with interest at the rate of 24% per annum. The petitioner preferred the appeal in the Court of the Divisional Joint Registrar, Co-operative Societies, Nashik Division, Nashik, which was dismissed. Hence, the present petition.

3. We have heard the learned counsel appearing for the petitioner and have also perused the papers, including the impugned order. Learned counsel submitted that the petitioner defended the charges levelled against him by letter dated 14th February, 2003, wherein it is stated that his alleged

admission was obtained forcibly, and therefore, the entire inquiry is required to be set aside.

4. The petitioner has admitted in writing the charges levelled against him, which has been recorded by the inquiry officer holding him guilty of misappropriation of the said amount.

5. After going through the order of the learned Divisional Joint Registrar, we are of the opinion that in this petition under Article 226 of the Constitution, questions of facts, namely, admission was voluntary or under pressure, cannot be gone into by us. In his order, the learned Divisional Joint Registrar has specifically dealt with this point of admission as under:-

> "I find that the inquiry officer had issued inquiry report on 28th February, 2004. The appellant (petitioner) Shri Anil Khandu Yeola was given an opportunity to appear before the inquiry officer and submit his say with reference to the allegations and the issues involved in the inquiry. As per the report of the inquiry officer the appellant has submitted his

say while admitting the misappropriation of the amounts of respondent to the tune of Rs.16,58,373=28 PS. The inquiry officer based on records of Askheda Bruhat Vividh Karyakari Sewa Sahakari Society Limited, Satana, Taluka Satana, District Nashik and the compliance had submitted his report. In view of this clear-cut admission of the misappropriation by the appellant, I hold that Mr. Yeola, appellant, has committed misappropriation of the same amount as mentioned in the inquiry report."

Needless to say that we are in agreement with the aforesaid findings, and therefore, we see no merit in the petition. It is dismissed.

CHIEF JUSTICE

DR.D.Y.CHANDRACHUD,J.